

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:)	Chapter 11
)	
RESOURCE TECHNOLOGY)	Case No. 99 B 35434
CORPORATION,)	
)	
Debtor.)	Hon. Eugene R. Wedoff

NOTICE OF MOTION

To: The Parties on the Attached Certificate of Service

PLEASE TAKE NOTICE that on November 27, 2001 at 9:30 a.m., the undersigned shall appear before the Honorable Eugene R. Wedoff, Courtroom 744, 219 South Dearborn Street, Chicago, Illinois, and then and there present the **MOTION TO AUTHORIZE DEBTOR TO BORROW FUNDS FROM NETWORK ELECTRIC COMPANY, GRANT LIENS, AND FOR OTHER RELIEF**, at which time you may appear if you deem fit. A true and correct copy of the Motion is attached hereto and herewith served upon you.

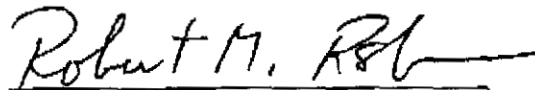
RESOURCE TECHNOLOGY CORPORATION

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CERTIFICATE OF SERVICE

The undersigned, an attorney, does hereby certify that a true and correct copy of the **FOREGOING NOTICE** and the **MOTION TO AUTHORIZE DEBTOR TO BORROW FUNDS FROM NETWORK ELECTRIC COMPANY, GRANT LIENS, AND FOR OTHER RELIEF**, via facsimile transmission (*unless otherwise indicated), as indicated below, this 23rd day of November, 2001.



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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 11
)	
<i>RESOURCE TECHNOLOGY</i>)	Case No. 99 B 35434
<i>CORPORATION,</i>)	
)	
Debtor.)	Hon. Eugene R. Wedoff
)	

**MOTION TO AUTHORIZE DEBTOR TO
BORROW FUNDS FROM NETWORK ELECTRIC COMPANY, GRANT LIENS, AND
FOR OTHER RELIEF**

Resource Technology Corporation ("RTC"), the Debtor and Debtor in Possession herein, respectfully moves this Court, pursuant to Section 364 of title 11, United States Bankruptcy Code (the "Bankruptcy Code"), for Authority to Borrow Funds, Grant Liens, and For Other Relief (the "Motion"), as more fully described below, and in support thereof, states as follows:

1. On or about November 15, 1999, an involuntary petition under Chapter 7 of the Bankruptcy Code was filed against RTC (the "Case"). On or about January 18, 2000 RTC consented to the entry of both an order for relief and one converting the Case to one under Chapter 11 of the Bankruptcy Code, which orders became effective on February 1, 2000. RTC is in possession of its assets and operating its business as Debtor in Possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

2. This Court has jurisdiction over the Case pursuant to Sections 157(b)(1) and 1334 of Title 28, United States Code. This is a core proceeding pursuant to Section 157(b)(2)(A) and (O) of title 28, United States Code. Venue is proper pursuant to Sections 1408 and 1409 of title 28, United States Code.

3. RTC is in the business of controlling methane gas pollution of the atmosphere from landfills and structuring qualified transactions that create tax credits under the Internal Revenue Code for the sale and disposition of the same. It collects the methane gas and either disposes of it, or in some instances, converts it into usable energy, which it then sells to utility companies.

4. RTC has several sources of financing to support its business operations. It currently has an operating line of credit of \$5,000,000 (the "Banco Financing") granted to it by Leon Greenblatt, as agent for and on behalf of himself, Banco Panamericano, Inc. and Chiplease, Inc., as lenders (collectively, "Banco"), all as approved by the Court pursuant to an order dated March 2, 2000 (the "Financing Order"). At the time of the entry of the Financing Order, the Debtor advised the parties that it believed that it needed a more substantial advance of credit in order to more promptly pursue the completion or expansion of its various gas to energy systems, particularly the completion of the Congress facility and the expansion of the Pontiac facility, and to propose and confirm a plan of reorganization. Accordingly, the Debtor pursued additional third party financing from Wells Fargo and other sources.

5. Subsequently, on or about June 9, 2000, RTC reached an agreement (the "June Agreement") with Network Electric Corporation ("NEC"), subject to Court authorization, respecting the financing of construction and/or expansion at RTC's Pontiac and Congress sites (the "Pontiac Facility" and the "Congress Facility", respectively). Pursuant to the June Agreement, NEC, subject to the terms and conditions therein, agreed to extend to RTC credit in an amount not to exceed \$13,100,000 for construction work at the Pontiac Facility and the Congress Facility, plus an additional \$22,590,000, structured as subleases, to be utilized to acquire additional gas to electricity engines for the Congress and Pontiac Facilities. RTC sought

Court approval of the June Agreement, and on or about August 1, 2000, the Court entered an Order Authorizing Debtor to Borrow Funds, Grant Liens, Enter Into Contracts and For Other Relief (the "First NEC Order"), which approved the June Agreement, including the granting of certain liens and contract rights to NEC, as set forth therein and in the June Agreement (NEC and Banco will hereinafter be collectively referred to as the "Current Lenders"). The financing with NEC under the June Agreement with respect to the Pontiac Facility closed on or about August 4, 2000 and the financing with NEC under the June Agreement with respect to the Congress Facility closed on or about October 27, 2000 (collectively, the "First NEC Financing").

6. On or about August 9, 2000, RTC reached a second agreement (the "August Agreement") with NEC, subject to Court authorization, respecting the financing of construction and/or expansion at RTC's Beecher, Des Plaines and 31st Street sites (the "Beecher Facility", the "Des Plaines Facility", and the "31st Street Facility, respectively). Pursuant to the August Agreement, NEC, subject to the terms and conditions therein, agreed to extend to RTC credit in an amount not to exceed \$9,705,000 for construction work at the Beecher, Des Plaines and 31st Street Facilities, plus an additional \$11,295,000 structured as subleases, to be utilized to acquire additional gas to electricity engines for the Beecher Facility. RTC sought Court approval of the August Agreement, and on or about November 16, 2000, the Court entered an Order Authorizing Debtor to Borrow Funds, Grant Liens, Enter Into Contracts and For Other Relief (the "Second NEC Order"), which approved the August Agreement, including the granting of certain liens and contract rights to NEC, as set forth therein and in the August Agreement. The financing with NEC under the August Agreement with respect to the Beecher Facility closed on or about December 8, 2000 (the "Second NEC Financing") (collectively, the Banco Financing, the First

NEC Financing and the Second NEC Financing are hereinafter referred to the "Existing Financings").

7. RTC has additionally determined that it is appropriate to expand its capabilities at the Pontiac Facility. The expansion will consist of the addition of (i) three 5.5 megawatt Taurus Engines for the conversion of methane gas to electricity (the "Taurus Project") and (ii) one 14 megawatt Titan Engine for the conversion of natural gas to electricity (the "Titan Project") (collectively, the Taurus Project and the Titan Project shall hereinafter referred to as the "New Projects"). In order to accomplish the New Projects, however, it is necessary that RTC receive an additional advance of credit, similar to those that it has previously received from NEC.

8. On or about October 27, 2001, RTC reached an agreement (the "October Agreement") with NEC, subject to Court authorization, respecting the New Projects. Pursuant to the October Agreement, NEC, subject to the terms and conditions therein, agreed to extend to RTC credit in an amount not to exceed \$19,500,000 for both the construction of the Taurus Project and the acquisition of the three additional Solar Taurus turbines units rated 5.5 megawatts and related equipment, including a landfill gas compression system and all necessary mechanical, electrical and civil infrastructure work to support the turbines (the "Taurus Engines") contemplated for inclusion in the Taurus Project (the "Taurus Project Financing"). Additionally, pursuant to the October Agreement, NEC, subject to the terms and conditions therein, agreed to extend to RTC credit in an amount not to exceed \$17,222,000 for both the construction of the Titan Project and the acquisition of a Solar Titan turbine units rated 14 megawatts and related equipment, including a landfill gas compression system and all necessary mechanical, electrical and civil infrastructure work to support the turbine (the "Titan Engine") contemplated for inclusion in the Titan Project (the "Titan Project Financing").

9. As part of the process that led to both the June and August Agreements, RTC engaged in a lengthy search for the best source of additional financing. After engaging in that search process, and having now entered into two financing arrangements with NEC, RTC believes that the financing being offered by NEC ¹¹ under the terms and conditions as set forth in the October Agreement, a copy of which is attached hereto and made part hereof as Exhibit A (the "Proposed Financing"), represents the most realistic and advantageous opportunity for RTC. The Proposed Financing will allow RTC to proceed immediately and simultaneously with the New Projects, while not impairing its ability to continue work on its numerous other pending and contemplated projects. This work, and the cash flow anticipated to ultimately be derived from the New Projects, will add to the Debtor's ability to reorganize its business, and provide additional resources to fund a plan of reorganization.

10. The Debtor is unable to obtain sufficient working capital financing in the form of unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code pursuant to sections 364(a) or (b) of the Bankruptcy Code. The Debtor is unable to obtain financing having the priority afforded by section 364(c)(1) of the Bankruptcy Code or financing secured as described in sections 364(c)(2) or (3) of the Bankruptcy Code on terms and conditions as advantageous as the Proposed Financing. NEC is willing to provide this additional financing only under Section 364(d) of the Bankruptcy Code, and Banco is willing to subordinate its interest in the Collateral (as that term is defined hereinbelow) to the interest proposed to be granted to NEC hereunder, in order to accommodate the Proposed Financing.

¹¹ NEC is neither owned nor controlled by any person or entity with an interest, direct or indirect, in RTC or Banco.

11. The Debtor is unaware of any other source of such extensive financing that is available to it. The Debtor acknowledges that (a) substantially all of its cash is "cash collateral" of either the Current Lenders or other creditors as defined by Section 363 of the Bankruptcy Code ("Cash Collateral"), and (b) the Current Lenders have not consented to the Debtor's use of existing cash collateral, except in accordance with the terms of the Existing Financings. The Debtor's inability to obtain the use of existing Cash Collateral over the objection of the Current Lenders, the current insufficiency of Cash Collateral to meet the Debtor's operating and expansion cash needs, and the insufficiency of the funds available under the Existing Financings to allow RTC to proceed with the New Projects, lead to uncertainty on the part of existing creditors and on the part of parties with whom the Debtor is seeking to do business on a going forward basis, and is not beneficial to the Debtor's efforts to reorganize. Additionally, the general contractor services being offered by NEC in connection with the Proposed Financing makes the arrangement particularly attractive to the Debtor. After considering all alternatives, the Debtor has concluded, in the exercise of its business judgment, that the Proposed Financing contemplated by this Motion represents the best working capital financing available to the Debtor under the present circumstances.

12. NEC has indicated a willingness to extend additional credit to the Debtor respecting (i) the Taurus Project in an amount not to exceed \$19,750,000^{2/}, and (ii) the Titan Project in an amount not to exceed \$17,222,000, both on the terms and conditions set forth in the October Agreement, and is summarized below.

^{2/} Of this amount, not more than \$250,000 will be made available solely for the cost of the Commonwealth Edison interconnect.

13. The ability of the Debtor to finance its operations and the availability of the Proposed Financing described in this Motion is vital. The preservation and maintenance of the value of the Debtor's business is of the utmost significance and importance and is in the best interests of the estate and its creditors. The terms of the extensions of credit set forth in this Motion are fair and reasonable under the circumstances. Among other things, entry of an order granting the relief requested by Debtor in this Motion will (a) minimize disruption of the Debtor's business and operations, (b) assist the Debtor in meeting payroll and other operating expenses, (c) assist the Debtor in meeting its obligations under various pending contracts that are important to the Debtor's ongoing business operations, (d) result in a substantial economic benefit for the Estate, (e) enable the Debtor to continue to obtain needed supplies and retain customer confidence, (f) provide the Debtor with reliable and valuable general contractor services in conjunction with the New Projects, and (g) help provide an additional revenue upon which the Debtor can rely for purposes of a plan of reorganization. The relief requested in this Motion is of great value to the Debtor's ability to advance this Case, and therefore, entry of an order approving this Motion is in the best interests of the Debtor, its estate and creditors.

14. The terms of the Proposed Financing contemplated hereby have been negotiated in good faith and at arm's-length between the Debtor and NEC, and the credit to be extended by NEC is being offered in good faith (as that term is used in Section 364(e) of the Bankruptcy Code).

15. The Debtor hereby requests authorization to obtain the Taurus Project Financing on the basis set forth in the October Agreement, which can be summarized generally as follows:

- (A) Principal. The Debtor may borrow from NEC up to the aggregate principal amount of \$19,500,000 for construction of the Taurus Project at the Pontiac Facility (the "Taurus Construction Loan").
- (B) Interest. The unpaid principal balance as to the Taurus Construction Loan shall bear interest at the rate of 8.42% per annum.
- (C) Payments. Principal and accrued interest will be payable over a sixty (60) month period, commencing upon the Taurus Commencement of Payment Date (generally defined in the Financing Agreement as the later of completion of construction of the Taurus Project and receipt of the first payment from the sale of electricity from Taurus Engines).
- (D) Collateral. As security for the Taurus Construction Loan, RTC shall grant to NEC:
- (1) a first priority security interest in its full right, title, and interest in the (a) the Taurus Engines, and (b) any and all rights of RTC under the Solar Operations and Maintenance Agreements relating to the Taurus Engines (as such term is defined in the October Agreement); and
 - (2) a second priority security interest in its full right, title, and interest in any and all rights of RTC in contracts and agreements respecting the Pontiac Facility, including the Paying Agent Agreement, subject only to the existing security interest of NEC from the First NEC Financing^{3/} (collectively, the property

^{3/} If RTC's motion to enter into a financing arrangement with Aquila Energy Capital Corporation ("Aquila"), filed contemporaneously with this Motion, is granted, then the first lien rights in and to these assets shall have been granted to Aquila.

described in (1) and (2) immediately hereinabove shall be referred to the "Collateral").

- (E) Expenses and Attorneys Fees. RTC and NEC shall each bear responsibility for their own costs, expenses and attorneys' fees with respect to the Taurus Project Financing.
- (F) The security interests, liens and mortgages in favor of NEC with respect to the Collateral granted herein shall be deemed valid, binding, enforceable and perfected without the execution or filing of any document or instrument otherwise required to be executed and/or filed under applicable non-bankruptcy law. Notwithstanding the foregoing, the Debtor shall, at NEC's option, execute and deliver to NEC, in form and substance satisfactory to NEC, such financing statements, mortgages, assignments, agreements, instruments and documents as NEC shall request to create, evidence or perfect the security interests, liens and mortgages proposed herein and NEC may file such financing statements, mortgages, assignments, agreements, instruments and documents in such filing offices as may be appropriate under applicable non-bankruptcy law in order to perfect the security interests, mortgages and liens with respect to the Collateral. Any error or omission by NEC or its agents in the preparation or filing of any such financing statements, mortgages, assignments, agreements, instruments or documents shall not affect the validity, extent, perfection or priority of any security interest, lien or mortgage granted to NEC. All financing statements, mortgages, assignments, agreements, instruments and documents, any taking of possession of any of the Collateral and any taking of any other action to validate

or perfect NEC's security interest, lien or mortgage against the Collateral under the provision of applicable non-bankruptcy law shall be deemed to have been made or taken at the time and on the date of an order approving this Motion; provided, however, that no such filings or other actions shall in any way limit the effect of such order. To the extent deemed necessary by NEC, Banco shall subordinate any security interest it may have in the Collateral to the interest obtained by NEC pursuant to the Taurus Project Financing.

- (G) To further evidence the amounts owing from RTC to NEC under the Taurus Project Financing, the creation of NEC's security interests in and liens and mortgages upon the Collateral and the other terms and conditions of the financing arrangements contemplated hereby, the Debtor shall be authorized and directed to (but at NEC's option need not) execute and deliver to NEC in form and substance satisfactory to NEC, such agreements, instruments and documents from Debtor or third parties as NEC shall reasonably require and such other orders of this Court and other courts with respect to the Debtor or third parties as NEC reasonably shall require.
- (H) Unless contemplated in the October Agreement or herein, there shall not be entered in this Chapter 11 case or in any subsequent Chapter 7 case any order which authorizes under any section of the Bankruptcy Code (including, without limitation, sections 105, 364 or 506 of the Bankruptcy Code) the procurement of credit or the incurring of indebtedness secured by a security interest, lien or mortgage, which is equal to or senior to NEC Liens, nor shall the Debtor, directly or indirectly, create, incur, assume or permit to exist any security interest, lien or

mortgage, on or with respect to the Collateral, nor take or fail to take any action which would grant or create a security interest, lien or mortgage in favor of any party (other than NEC) in the Collateral.

- (I) From and after the date of the entry of an order approving this Motion, the proceeds of the Taurus Project Financing shall be used only for the purposes provided for in the October Agreement, and none other, and none of said proceeds shall be paid to Banco, or to NEC for obligations of RTC under the Existing Financings.

16. The Debtor hereby requests authorization to obtain the Titan Project Financing on the basis set forth in the October Agreement, which can be summarized generally as follows:

- (A) Principal. The Debtor may borrow from NEC up to the aggregate principal amount of \$17,222,000 for construction of the Titan Project at the Pontiac Facility (the "Titan Construction Loan").
- (B) Interest. The unpaid principal balance as to the Titan Construction Loan shall bear interest at the rate of 9.50% per annum.
- (C) Payments. Principal and accrued interest will be payable over a one hundred twenty (120) month period, commencing upon the Titan Commencement of Payment Date (generally defined in the Financing Agreement as the later of completion of construction of the Titan Project and receipt of the first payment from the sale of electricity from Titan Engine).
- (D) Collateral. As security for the Titan Construction Loan, RTC shall grant to NEC:
- (1) a first priority security interest in its full right, title, and interest in the (a) the Titan Engine, and (b) any and all rights of RTC under the Solar Operations

and Maintenance Agreements relating to the Titan Engine (as such term is defined in the October Agreement); and

(2) a second priority security interest^{4/} in its full right, title, and interest in any and all rights of RTC in contracts and agreements respecting the Pontiac Facility, including the Paying Agent Agreement, subject only to the existing security interest of NEC from the First NEC Financing (collectively, the property described in (1) and (2) immediately hereinabove shall be referred to the "Collateral").

- (E) Expenses and Attorneys Fees. RTC and NEC shall each bear responsibility for their own costs, expenses and attorneys' fees with respect to the Titan Project Financing.
- (F) The security interests, liens and mortgages in favor of NEC with respect to the Collateral granted herein shall be deemed valid, binding, enforceable and perfected without the execution or filing of any document or instrument otherwise required to be executed and/or filed under applicable non-bankruptcy law. Notwithstanding the foregoing, the Debtor shall, at NEC's option, execute and deliver to NEC, in form and substance satisfactory to NEC, such financing statements, mortgages, assignments, agreements, instruments and documents as NEC shall request to create, evidence or perfect the security interests, liens and mortgages proposed herein and NEC may file such financing statements, mortgages, assignments, agreements, instruments and documents in such filing

^{4/} This second secured position will be *pari passu* with the security interest to be granted to NEC with respect to the Taurus Project Financing.

offices as may be appropriate under applicable non-bankruptcy law in order to perfect the security interests, mortgages and liens with respect to the Collateral. Any error or omission by NEC or its agents in the preparation or filing of any such financing statements, mortgages, assignments, agreements, instruments or documents shall not affect the validity, extent, perfection or priority of any security interest, lien or mortgage granted to NEC. All financing statements, mortgages, assignments, agreements, instruments and documents, any taking of possession of any of the Collateral and any taking of any other action to validate or perfect NEC's security interest, lien or mortgage against the Collateral under the provision of applicable non-bankruptcy law shall be deemed to have been made or taken at the time and on the date of an order approving this Motion; provided, however, that no such filings or other actions shall in any way limit the effect of such order. To the extent deemed necessary by NEC, Banco shall subordinate any security interest it may have in the Collateral to the interest obtained by NEC pursuant to the Titan Project Financing.

- (G) To further evidence the amounts owing from RTC to NEC under the Titan Project Financing, the creation of NEC's security interests in and liens and mortgages upon the Collateral and the other terms and conditions of the financing arrangements contemplated hereby, the Debtor shall be authorized and directed to (but at NEC's option need not) execute and deliver to NEC in form and substance satisfactory to NEC, such agreements, instruments and documents from Debtor or third parties as NEC shall reasonably require and such other orders of this Court

and other courts with respect to the Debtor or third parties as NEC reasonably shall require.

- (H) Unless contemplated in the October Agreement or herein, there shall not be entered in this Chapter 11 case or in any subsequent Chapter 7 case any order which authorizes under any section of the Bankruptcy Code (including, without limitation, sections 105, 364 or 506 of the Bankruptcy Code) the procurement of credit or the incurring of indebtedness secured by a security interest, lien or mortgage, which is equal to or senior to NEC Liens, nor shall the Debtor, directly or indirectly, create, incur, assume or permit to exist any security interest, lien or mortgage, on or with respect to the Collateral, nor take or fail to take any action which would grant or create a security interest, lien or mortgage in favor of any party (other than NEC) in the Collateral.
- (I) From and after the date of the entry of an order approving this Motion, the proceeds of the Titan Project Financing shall be used only for the purposes provided for in the October Agreement, and none other, and none of said proceeds shall be paid to Banco, or to NEC for obligations of RTC under the Existing Financings.

17. In addition to the Taurus Project Financing and Titan Project Financing, and in conjunction therewith, RTC will retain NEC as general contractor^{2/} with respect to the design and construction and/or upgrade for the New Projects.

^{2/} Pursuant to the general contract as described in the October Agreement.

18. RTC and NEC propose to close the Proposed Financing on or before December 31, 2001, subject to the conditions set forth in the October Agreement, including the entry of an order by this Court authorizing the Debtor to enter into the Proposed Financing.

19. All of the obligations of RTC to NEC with respect to the Proposed Financing shall be subject to treatment under a plan of reorganization pursuant to the terms of the October Agreement, but RTC may not modify, alter, extend or otherwise change the terms thereof under such a plan, without the prior written consent of NEC.

20. Upon the Closing of the Taurus Project Financing, RTC (and not NEC) shall owe to Archimedes Financial Corporation ("AFC")⁶⁷ a commission, for services rendered in bringing RTC and NEC together and assisting in the negotiation and formulation of the Taurus Project Financing, equal to one percent (1%) of the aggregate face amount of the Taurus Project Loan or \$19,500,000 for a total commission due of \$195,000 (the "Taurus Commission"); however, the ultimate Taurus Commission paid to AFC will only be equal to one percent (1%) of the aggregate principal of the Taurus Project Loan actually made by NEC to RTC. The Taurus Commission will due and payable by RTC at the earlier of (a) the occurrence of the Commencement of Payment Date under the October Agreement or (b) at such time as RTC, in its sole discretion, believes it has the available resources to pay the Taurus Commission. To the extent that RTC has not paid the entire Taurus Commission on or before the Commencement of Payment Date under the October Agreement, then the Taurus Commission will be paid in sixty (60) equal monthly installments, the first of which shall be on the last of the Commencement of

⁶⁷ On or about August 3, 2000 and order was entered authorizing the Debtor's retention of AFC for purposes of assisting it in obtaining financing. AFC is neither owned nor controlled by any person or entity with an interest, direct or indirect, in RTC, the Current Lenders, nor NEC.

Payment Date under the October Agreement, including interest at twelve and one half percent (12.5%) per annum. The Taurus Commission may be paid in whole or in part at any time after it is actually earned.

21. Upon the Closing of the Titan Project Financing, RTC (and not NEC) shall owe to AFC a commission, for services rendered in bringing RTC and NEC together and assisting in the negotiation and formulation of the Titan Project Financing, equal to one percent (1%) of the aggregate face amount of the Titan Project Loan or \$17,222,000 for a total commission due of \$172,220 (the "Titan Commission"); however, the ultimate Titan Commission paid to AFC will only be equal to one percent (1%) of the aggregate principal of the Titan Project Loan actually made by NEC to RTC. The Titan Commission will due and payable by RTC at the earlier of (a) the occurrence of the Commencement of Payment Date under the October Agreement or (b) at such time as RTC, in its sole discretion, believes it has the available resources to pay the Titan Commission. To the extent that RTC has not paid the entire Titan Commission on or before the Commencement of Payment Date under the October Agreement, then the Titan Commission will be paid in sixty (60) equal monthly installments, the first of which shall be on the last of the Commencement of Payment Date under the October Agreement, including interest at twelve and one half percent (12.5%) per annum. The Titan Commission may be paid in whole or in part at any time after it is actually earned.

22. Due to the significant participation of the parties whose counsel are on the Master Service List in this Case, and the existence of a Creditors' Committee to represent the interests of unsecured creditors, RTC requests that notice of the hearing on this Motion be limited to the parties on the Master Service List.

"Reimbursement"). In order to proceed with this contemplated transaction, it is necessary for RTC to be immediately authorized to provide the Reimbursement, as set forth in the Aquila Agreement, without further order of Court.

21. Due to the significant participation of the parties whose counsel are on the Master Service List in this Case, and the existence of a Creditors' Committee to represent the interests of unsecured creditors, RTC requests that notice of the hearing on this Motion be limited to the parties on the Master Service List.

WHEREFORE, the Debtor requests that it be immediately authorized to provide the Reimbursement and, after notice and hearing, a final order be entered allowing the Aquila Financing and other requested relief, including the limitation of notice, all upon the terms and conditions set forth in this Motion. The Debtor further requests such other and further relief as to the Court seems just and equitable.

Dated: November 23, 2001

Respectfully submitted,

RESOURCE TECHNOLOGY CORPORATION

By:

Robert M. Fish
One of its Attorneys

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October 25, 2001

Mr. Randy Soule, President
Network Electric Company
5425 Louie Lane
Reno, NV 89511

RE: Pontiac Plant

Dear Mr. Soule:

This letter, when fully executed, constitutes an agreement (the "Agreement") by and between Resource Technology Corporation ("RTC") and Network Electric Company ("NEC") with respect to the terms on which NEC (a) shall provide certain financing (the "Pontiac Plant Upgrade Taurus Engines Financing") to RTC in connection with the design and construction of the "Pontiac Plant Upgrade Taurus Engines" (as such term is hereinafter defined) at the landfill gas-to-energy plant (the "Pontiac Plant") on the property located at RR3 14206, East 2100 North Road, Pontiac, Illinois (the "Pontiac Property"), (b) shall provide certain financing (the "Pontiac Plant Upgrade Titan Engine Financing") to RTC in connection with the design and construction of the "Pontiac Plant Upgrade Titan Engine" (as such term is hereinafter defined) at the Pontiac Plant on the Pontiac Property, and (c) shall serve as the general contractor for RTC with respect to the design and construction of the "Pontiac Plant Upgrade Taurus Engines" (as such term is hereinafter defined) and the "Pontiac Plant Upgrade Titan Engine" (as such term is hereinafter defined) at the Pontiac Plant on the Pontiac Property, all in accordance with the following terms and conditions:

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EXHIBIT A

Mr. Randy Soule, President
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A. THE PONTIAC PLANT UPGRADE TAURUS ENGINES FINANCING

1. Pontiac Plant Upgrade Taurus Engines Financing. NEC shall provide financing to upgrade the Pontiac Plant by the construction of a fourth Solar Taurus turbine unit rated at ISO 5 megawatts, and related equipment, evidenced by approval of construction documentation by RTC and NEC, a fifth Solar Taurus turbine unit rated at ISO 5 megawatts, including related equipment, evidenced by approval of construction documentation by RTC and NEC, and a sixth Solar Taurus turbine unit rated at ISO 5 megawatts, including related equipment, evidenced by approval of construction documentation by RTC and NEC, each at the Pontiac Plant on the Pontiac Property (said fourth Solar Taurus turbine unit, said fifth Solar Taurus turbine unit, and said sixth Solar Taurus turbine unit shall be individually hereinafter referred to as a "Pontiac Plant Upgrade Taurus Engine" and collectively hereinafter referred to as the "Pontiac Plant Upgrade Taurus Engines") in accordance with the following terms and conditions:

(a) Amount: \$1,300,000.00 per megawatt for each Pontiac Plant Upgrade Taurus Engine for a total of \$6,500,000.00 per Pontiac Plant Upgrade Taurus Engine;

(b) Interest Rate: With respect to each Pontiac Plant Upgrade Taurus Engine, 8 and 42/100ths percent (8.42%) per annum on amounts disbursed from and after the date of each such disbursement;

(c) Disbursements: With respect to each Pontiac Plant Upgrade Taurus Engine, within 15 days after the end of each calendar month, as construction progresses, upon submission of appropriate invoices evidencing the work completed and/or the equipment installed in accordance with the "General Contractor Contracts" (as such term is hereinafter defined), with respect to such Pontiac Plant Upgrade Taurus Engine;

(d) Payments: Principal and interest with respect to each Pontiac Plant Upgrade Taurus Engine shall accrue without payment until the date (the "Payment Commencement Date") that (i) "Final Completion" (as defined in the "General Contractor Contracts" (as such term is hereinafter defined), except as modified below) of the construction of such Pontiac Plant Upgrade Taurus Engine has occurred in accordance with approved plans and specifications therefor and as provided under the "General Contractor Contracts" (as such term is hereinafter defined), with respect to such Pontiac Plant Upgrade Taurus Engine, and (ii) RTC has received its first payment for the first full month from the sale of electricity produced at the Pontiac Plant for such Pontiac Plant Upgrade Taurus Engine, and the paying agent has disbursed such payment pursuant to the terms of its agreement with RTC and NEC (the "Paying Agent Agreement"); provided that, as an exception, from the date that (I) "Substantial Completion" (as defined in the "General Contractor Contracts" (as such term is hereinafter defined)) of the construction of such Pontiac Plant Upgrade Taurus Engine has occurred in accordance with approved plans and specifications therefor and as provided under the "General Contractor Contracts" (as such term is hereinafter defined), with respect to such Pontiac Plant Upgrade Taurus Engine, and (II) RTC has received its first payment for the first full month from the sale of electricity produced at the Pontiac Plant for such Pontiac Plant Upgrade Taurus Engine, and the paying agent has disbursed such payment pursuant to the

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terms of the Paying Agent Agreement, RTC shall be obligated to pay NEC monthly interest (but not principal) payments at the interest rate hereinabove set forth on the aggregate amount of then outstanding principal and interest. Commencing 30 days following the Payment Commencement Date for each Pontiac Plant Upgrade Taurus Engine, the aggregate amount of then outstanding principal and interest, together with interest on such amount at the interest rate hereinabove set forth for each Pontiac Plant Upgrade Taurus Engine, shall be payable in equal monthly installments and in an amount sufficient to fully amortize said principal and interest over a period of 60 months.

2. **Security.** As security for the Pontiac Plant Upgrade Taurus Engines Financing, RTC shall grant to NEC a first priority security interest and lien in its right, title and interest in the following items:

- (a) The Pontiac Plant Upgrade Taurus Engines; and
- (b) Any and all rights of RTC under the "Solar Operations and Maintenance Agreements" (as such term is hereinafter defined).
- (c) A second priority security interest in its full right, title and interest in any and all rights of RTC in contracts and agreements respecting the Pontiac Facility, including the Paying Agent Agreement, subject only to the existing security interest of NEC from the First NEC Financing (collectively, the property described in (1) and (2) of the attached Motion to Authorize Debtor to Borrow Funds, Grant Liens, and Other Release filed November 23, 2001, shall be referred to as the "Collateral")

3. **General Contractor Contracts.** RTC and NEC shall enter into one or more construction contracts, substantially in the form of "AGC Document No. 415" (the "General Contractor Contracts"), pursuant to the terms of which NEC shall act in the capacity of general contractor with respect to the design and construction of the Pontiac Plant Upgrade Taurus Engines. Such obligations shall include, without limitation, (i) the acquisition and installation at the Pontiac Plant of the Pontiac Plant Upgrade Taurus Engines and all related equipment necessary to operate the Pontiac Plant Upgrade Taurus Engines and supply electricity generated to the grid, and (ii) the acquisition and installation of all other property and equipment, and the provision of all services necessary for the design, construction and operation of the Pontiac Plant Upgrade Taurus Engines and all components thereof. The General Contractor Contracts shall include the following terms and conditions:

- (a) The guaranteed maximum cost under the General Contractor Contracts for each Pontiac Plant Upgrade Taurus Engine shall be \$6,500,000.00 (\$1,300,000.00 per megawatt).
- (b) "Substantial Completion" (as defined in the General Contractor Contracts) of the construction of each Pontiac Plant Upgrade Taurus Engine shall occur not later than 300 days following the receipt by NEC from RTC of a notice to proceed with respect to the construction of such Pontiac Plant Upgrade Taurus Engine, subject only to force majeure events as set forth in the General Contractor Contracts with respect to such Pontiac Plant Upgrade Taurus

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Engine. The parties acknowledge that all conditions precedent to the construction of the fourth Pontiac Plant Upgrade Taurus Engine (as described above) have been satisfied.

(c) "Final Completion" (as defined in the General Contractor Contracts, except as modified below) of the construction of each Pontiac Plant Upgrade Taurus Engine shall occur not later than 360 days after the date of commencement of construction of each Pontiac Plant Upgrade Taurus Engine, subject only to force majeure events as set forth in the General Contractor Contracts with respect to such Pontiac Plant Upgrade Taurus Engine.

(d) Within 30 days after "Substantial Completion" (as defined in the General Contractor Contracts) of the construction of any Pontiac Plant Upgrade Taurus Engine has occurred, RTC shall provide NEC with a written punchlist of items with respect to such Pontiac Plant Upgrade Taurus Engine that remain uncompleted or that require correction or repair. NEC shall then have 30 days or such other reasonable amount of time as shall be mutually agreed to by RTC and NEC at such time to complete, correct, or repair said items on said punchlist with respect to such Pontiac Plant Upgrade Taurus Engine. Notwithstanding anything herein to the contrary, "Final Completion" (as such term is used both under the General Contractor Contracts and this Agreement) of the construction of each Pontiac Plant Upgrade Taurus Engine shall not occur until such time as NEC has completed, corrected, or repaired all items on the punchlist provided by RTC with respect to such Pontiac Plant Upgrade Taurus Engine.

(e) NEC shall post a performance and payment bond for all of its obligations under the General Contractor Contracts with respect to each Pontiac Plant Upgrade Taurus Engine, issued by one or more reputable sureties reasonably acceptable to RTC.

(f) NEC shall provide construction warranties to RTC with respect to each Pontiac Plant Upgrade Taurus Engine, reasonably acceptable to RTC.

(g) Payment shall be made under the General Contractor Contracts with respect to each Pontiac Plant Upgrade Taurus Engine, pursuant to the terms of the Pontiac Plant Upgrade Taurus Engines Financing.

(h) With respect to each Pontiac Plant Upgrade Taurus Engine, such other terms and conditions as may be mutually agreed upon by RTC and NEC.

Notwithstanding anything herein to the contrary, except as may be otherwise mutually agreed upon by RTC and NEC, the terms and conditions of the General Contractor Contracts with respect to each of the Pontiac Plant Upgrade Taurus Engines shall be similar to the terms and conditions of the prior construction contracts executed by RTC and NEC with respect to the previously installed engines at the Pontiac Plant on the Pontiac Property.

4. **Operation and Maintenance Agreements.** The Pontiac Plant Upgrade Taurus Engines shall be purchased from Solar Turbines, Inc., a subsidiary of Caterpillar, Inc. ("Solar") and the Pontiac Plant Upgrade Taurus Engines will be maintained by Solar pursuant to Operations and Maintenance Agreements for each Pontiac Plant Upgrade Taurus Engine (the "Solar Operations and Maintenance Agreements"). The Pontiac Plant Upgrade Taurus Engines will be constructed to

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use landfill gas.

B. THE PONTIAC PLANT UPGRADE TITAN ENGINE FINANCING

1. Pontiac Plant Upgrade Titan Engine Financing. NEC shall provide financing to upgrade the Pontiac Plant by the construction of a Solar Titan turbine unit rated at ISO 14.0 megawatts (the "Pontiac Plant Upgrade Titan Engine"), including related equipment, evidenced by approval of construction documentation by RTC and NEC, on the Pontiac Property, at such specific location as shall be agreed upon by RTC, NEC, and Allied Waste Industries Corporation ("Allied"), the owner of the Pontiac Property, said Solar Turbine unit shall be hereinafter referred to as the "Pontiac Plant Upgrade Titan Engine", and such financing shall be provided in accordance with the following terms and conditions.

(a) Amount. \$1,230,000.00 per megawatt for the Pontiac Plant Upgrade Titan Engine for a total of \$17,220,000.00.

(b) Interest Rate. Nine and one half (9.5%) per annum on amounts disbursed from and after the date of each such disbursement.

(c) Disbursements: Within fifteen days after the end of each calendar month, as construction progresses, upon submission of appropriate invoices evidencing price and work completed and/or the equipment General Contractor Contracts (as such term is hereinabove defined); following schedule:

(d) Payments: Principal and interest shall accrue without payment until the Payment Commencement Date as such term is defined in paragraph A1(d) above, the terms and provisions of which paragraph are incorporated herein by this reference except that the term "Pontiac Plant Upgrade Taurus Engines" in all places in which it appears shall be modified to substitute therefor the term "Pontiac Plant Upgrade Titan Engine" and except that the amortization period for principal and interest shall be over a period of 120 months.

2. Security. As security for the Pontiac Plant Upgrade Titan Engine Financing, RTC shall grant to NEC a first priority security interest and lien in its right, title and interest in the following items:

(a) The Pontiac Plant Upgrade Titan Engine; and

(b) Any and all rights of RTC under the "Solar Operations and Maintenance Agreements" (as such term is hereinabove defined).

(c) A second priority security interest in its full right, title and interest in any and all rights of RTC in contracts and agreements respecting the Pontiac Facility, including the Paying Agent Agreement, subject only to the existing security interest of NEC from the First NEC Financing (collectively, the property described in (1) and (2) of

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the attached Motion to Authorize Debtor to Borrow Funds, Grant Liens, and Other Release filed November 23, 2001, shall be referred to as the "Collateral").

3. General Contractor Contracts. RTC and NEC shall enter into one or more General Contractor Contracts, as such term is defined in paragraph A3 above, the terms and provisions of which paragraph are incorporated herein by this reference except that the term "Pontiac Plant Upgrade Taurus Engines" in all places in which it appears shall be modified to substitute therefor the term "Pontiac Plant Upgrade Titan Engine", on the following terms and conditions:

(a) The guaranteed maximum cost under the General Contractor Contracts for the Pontiac Plant Upgrade Titan Engine shall be \$17,220,000.00 (\$1,230,000.00 per megawatt).

(b) Substantial Completion" (as defined in the General Contractor Contracts) shall occur not later than 270 days following the receipt by NEC from RTC of a notice to proceed, subject only to force majeure events as set forth in the General Contractor Contracts.

(c) "Final Completion" (as defined in the General Contractor Contracts, except as modified below) shall occur not later than 360 days after the date of commencement of construction, subject only to force majeure events as set forth in the General Contractor Contracts.

(d) Punchlist. Within 30 days after "Substantial Completion" (as defined in the General Contractor Contracts) of the construction of Pontiac Plant Upgrade Titan Engine has occurred, RTC shall provide NEC with a written punchlist of items that remain uncompleted or that require correction or repair. NEC shall then have 30 days or such other reasonable amount of time as shall be mutually agreed to by RTC and NEC at such time to complete, correct, or repair said items on said punchlist. Notwithstanding anything herein to the contrary, "Final Completion" (as such term is used both under the General Contractor Contracts and this Agreement) of the construction of the Pontiac Plant Upgrade Titan Engine shall not occur until such time as NEC has completed, corrected, or repaired all items on the punchlist provided by RTC. NEC shall post a performance and payment bond for all of its obligations under the General Contractor Contracts, issued by one or more reputable sureties reasonably acceptable to RTC.

(e) NEC shall provide construction warranties to RTC, reasonably acceptable to RTC.

(f) Payment shall be made under the General Contractor Contracts pursuant to the terms of the Pontiac Plant Upgrading Titan Engine Financing.

(g) Such other terms and conditions as may be mutually agreed upon by RTC and NEC.

Notwithstanding anything herein to the contrary, except as may be otherwise mutually agreed upon

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by RTC and NEC, the terms and conditions of the General Contractor Contracts with respect to the Pontiac Plant Upgrade Titan Engine shall be similar to the terms and conditions of the prior construction contracts executed by RTC and NEC with respect to the previously installed engines at the Pontiac Plant on the Pontiac Property.

2. Operation and Maintenance Agreement. The Pontiac Plant Upgrade Titan Engine shall be purchased from Solar and will be maintained by Solar pursuant to a Solar "Operation and Maintenance Agreement" as hereinabove defined.

C. GENERAL PROVISIONS

1. Conditions to Parties' Obligations. The parties' obligations under this Agreement are subject to the satisfaction or waiver of each of the following conditions:

(a) With respect to each Pontiac Plant Upgrade Taurus Engine, on or before the scheduled date for commencement of construction of such Pontiac Plant Upgrade Taurus Engine (except, with respect to the fourth Pontiac Plant Upgrade Taurus Engine, on or before the scheduled date for commencement of construction of the fifth Pontiac Plant Upgrade Taurus Engine), the execution by all required persons of all documents evidencing the Pontiac Plant Upgrade Taurus Engines Financing, the General Contractor Contracts, the Paying Agent Agreement, the Solar Operations and Maintenance Agreements, and all other contracts or agreements which may be required to develop, construct, operate, and finance the Pontiac Plant Upgrade Taurus Engines (collectively the "Taurus Definitive Agreements"), or, with respect to the Pontiac Plant Upgrade Titan Engine, on or before the scheduled date of installation of the Pontiac Plant Upgrade Titan Engine, the execution by all required persons of all documents evidencing the Pontiac Plant Upgrade Titan Financing, all documents evidencing the Fuel Purchase Agreement between RTC and NEC, General Contractor Contracts, the Paying Agent Agreement the separate "Operations and Maintenance Agreement" with respect to the Pontiac Plant Upgrade Taurus and Titan Engine, and all other contracts or agreements which may be required to develop, construct, operate, and finance the Pontiac Plant Upgrade Titan Engine (collectively the "Titan Definitive Agreements"). Except as may be otherwise mutually agreed upon by RTC and NEC, it is agreed that the terms and conditions of the Taurus Definitive Agreements shall be similar to the terms and conditions of the prior agreements executed by RTC and NEC with respect to the previously installed engines at the Pontiac Plant on the Pontiac Property. Notwithstanding the foregoing, unless the "Court Order" (as such term is hereinafter defined) otherwise requires, the parties may by mutual agreement agree that certain specified Taurus Definitive Agreements and/or Titan Definitive Agreements may be executed subsequent to the "Closing Date" (as such term is hereinafter defined).

(b) With respect to the obligations of NEC pertaining to the fifth Pontiac Plant Upgrade Taurus Engine and the sixth Pontiac Plant Upgrade Taurus Engine, on or before the date which is 30 days preceding the scheduled date for commencement of construction for each such Pontiac Plant Upgrade Taurus Engine, the existing well fields which are located on the Pontiac Plant shall have demonstrated for a period of not less than two (2) consecutive months preceding the date of commencement of construction a minimum of 1,800 cubic feet per minute of additional

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methane gas at a target heating value ranging between 450 BTU/ACF and 600 BTU/ACF.

(c) The issuance of an order (the "Court Order") approving this transaction by the United States Bankruptcy Court in the pending case in which RTC is currently a debtor-in-possession under Chapter 11 of Title 11, United States Code (the "Bankruptcy Code"), Case No. 99B35434. The parties agree to use their best efforts and due diligence to obtain such Court Order. In addition, RTC agrees to file an appropriate motion to obtain such Court Order within 30 days following execution of this Agreement.

(d) With respect to each Pontiac Plant Upgrade Taurus Engine, on or before the date which is 30 days preceding the scheduled date for commencement of construction of such Pontiac Plant Upgrade Taurus Engine (except, with respect to the fourth Pontiac Plant Upgrade Taurus Engine, on or before the date which is 30 days preceding the scheduled date for commencement of construction of the fifth Pontiac Plant Upgrade Taurus Engine), or, with respect to the Pontiac Plant Upgrade Titan Engine, on or before the date which is 30 days preceding the scheduled date of installation of the Pontiac Plant Upgrade Titan Engine, all required governmental and regulatory approvals and third party consents have been obtained.

The parties agree not to unreasonably withhold their approval with respect to the satisfaction of the foregoing conditions and agree to negotiate the terms of the Taurus Definitive Agreements and the Titan Definitive Agreements diligently and in good faith from and after the date of execution of this Agreement. Upon execution of each of the Taurus Definitive Agreements and each of the Titan Definitive Agreements, the terms of each such Taurus Definitive Agreement and each such Titan Definitive Agreement shall be controlling in the event of a conflict between the terms and provisions of this Agreement and those of the applicable Taurus Definitive Agreement or Titan Definitive Agreement. Except as specifically provided in subsections (a), (b), and (d) above, the conditions described above must be satisfied or be waived by the party for whose benefit the condition is imposed not later than sixty (60) days from the date that a non-appealable Court Order is issued (the "Condition Date"). If any of the foregoing conditions have not been satisfied or waived on or before the Condition Date, then either party may cancel this Agreement and those Taurus Definitive Agreements or Titan Definitive Agreements which have been executed prior to such time by delivery of written notice to the non-terminating party at any time prior to satisfaction of each of the foregoing conditions. Upon timely delivery of any termination notice, each of the parties shall be released from any further obligations under the terms of this Agreement and those Taurus Definitive Agreements or Titan Definitive Agreements which have been executed and such agreements shall thereafter be canceled. Notwithstanding the foregoing, if the transactions contemplated hereunder do not close due to any breach of any obligations owed hereunder by either party to the other, then the non-breaching party shall have available to it and may pursue all of its rights and remedies under law or equity.

2. **Closing.** Closing shall occur on the date five (5) business days after satisfaction or waiver of each of the conditions set forth in Section 1 above have been satisfied or waived (the "Closing Date"). At or prior to the Closing Date, the parties shall deliver to each other fully executed originals and/or copies of all documents and agreements to which each such party is a party, a certificate evidencing the closing, and such other items reasonably necessary for closing to occur under this Agreement and the Taurus Definitive Agreements and the Titan Definitive

FROM : Sarah Connolly

PHONE NO. : 630 232 7960

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Mr. Randy Soule, President
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Agreements.

3. Access and Confidentiality. In order to facilitate the due diligence review hereinabove referred to, each party shall afford the other party, its employees, auditors, legal counsel and other authorized representatives, reasonable opportunity and access during normal business hours to inspect, investigate and audit the assets, financial condition, operations, agreements and business of such other party commencing on the date hereof and ending on the closing date. All information obtained during such due diligence review shall remain confidential and shall be subject to the terms of a mutually satisfactory confidentiality agreement to be executed by the parties hereto prior to the date on which such due diligence review commences.

4. Costs. Each party shall bear its own costs incurred in connection with the transaction contemplated herein including, but not limited to, attorneys' fees.

If the terms and conditions of this Agreement are acceptable to NEC, please execute and date this Agreement in the space provided below and return a copy thereof, as so executed, to the undersigned.

We look forward to working with you on this transaction.

Very truly yours,

RESOURCE TECHNOLOGY CORPORATION

By: 
John Connolly, President

The terms and conditions of the foregoing Agreement are agreed to and accepted as of this _____ day of _____, 2001.

Network Electric Company

By: _____
Randy Soule, President